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IN THE

Supreme Court of the United States

OCTOBER TERM 1964

No. 591

SOUTH PUERTO RICO SUGAR COMPANY
TRADING CORPORATION,
Petitioner,

v.

THE UNITED STATES,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF CLAIMS

REPLY BRIEF IN SUPPORT OF PETITION

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November, 1964

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Preliminary Statement

Petitioner respectfully submits this Reply Brief in order that the record before this Court will be clear and unambiguous. This reply is directed to the Government's discussion of two facts and an asserted concession as to the legislative history.

Discontinuance of Other Importer's Suit

The Government, at page 3 of its Brief in Opposition, in reviewing the history of this litigation, states correctly that only three importers paid the subject fees and that of the three, only Petitioner and one other importer (the Dominican Sugar Corporation) commenced suit to recover the fees. The Government then states that the latter suit was dismissed with prejudice at the plaintiff's motion.

Lest the Court think that that suit was discontinued for a reason related to the merits of the claim, the Court's attention is respectfully directed to the Stipulation, pages 31 and 32, wherein it is established that in December, 1962 the United States announced the making of a grant to the new Dominican Government of $22,750,000, an amount substantially equivalent to the aggregate of $22,755,153.57 of entry fees collected from the three importers. Following this announcement, in February, 1963, the Dominican Sugar Corporation, a wholly-owned Government corporation which had been one of the Trujillo properties prior to its seizure at the time of the revolution, discontinued with prejudice its action in the United States Court of Claims for recovery of the fees paid by it. Following that discontinuance, in April, 1963, the Agency for International Development made available to the Government of the Dominican Republic $22,750,000. None of the money paid by Petitioner to the United States as entry fees for the importation of Dominican Republic replacement sugar has ever been returned to Petitioner, either directly or indirectly.

Rejection of President's Request for Authority to Exclude Dominican Replacement Sugar in August, 1960

The second point requiring clarification arises out of the description in the Government's Brief (at page 5) of the Congressional reaction to the President's request in August, 1960, for power to exclude replacement sugar emanating from the Dominican Republic. While the Government refers to the Stipulation which discusses these events in greater detail, the impression is left that the difference between the bills passed by the House and Senate were of a technical nature whose resolution was prevented by the adjournment of Congress. As the Stipulation demonstrates, the House bill, while granting the power requested, attached several conditions which would in effect

constitute a denial of the President's request by making the exercise of the power to exclude Dominican replacement sugar contingent upon the adoption of similar sanctions by a majority of the member states of the O.A.S. by October 15, 1960, an event which did not occur.

The Asserted Concession as to the Legislative History

The Government asserts (at pages 8-9) that "It is conceded that nothing in the legislative history of Public Law 86-592 is directed to the question whether the authority to prescribe the terms and conditions of importation included authority to impose a duty eliminating the benefit of the favorable United States price." If this is taken to mean simply that there was no specific reference to the matter of an import tax one way or the other, it is correct. However, if it is taken to mean that there is nothing in the legislative history which provides any guidance as to Congress's intention, it is not correct. It has been our position throughout that the legislative history requires the conclusion that Congress affirmatively intended that the sugar should be admitted for sale at the full domestic price. It was specifically recognized that those countries, including the Dominican Republic, which were being given replacement allotments would realize the advantage of the higher domestic price.

Respectfully submitted,

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